

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF VERMONT

UNITED STATES OF AMERICA)
)
v.)
)
114 PARK AVENUE, 116 PARK)
AVENUE, AND 117 PARK AVENUE,)
RUTLAND, VERMONT WITH ALL)
APPURTENANCES AND)
IMPROVEMENTS THEREON)
Defendants.)

Civil No. 2:15-cv-78

ORDER OF FORFEITURE AND JUDGMENT

This action was commenced on April 10, 2015 when the United States filed its Verified Complaint of Forfeiture *in rem* against property to include 114 Park Avenue, 116 Park Avenue, and 117 Park Avenue, Rutland, Vermont (collectively referred to as the “Real Properties”), pursuant to 21 U.S.C. § 881(a)(7), alleging that the Real Properties were used to facilitate violations of Title II of the Controlled Substances Act, including 21 U.S.C. §§ 841, 846, and 856. The United States seeks to forfeit the Real Properties pursuant to 21 U.S.C. § 881(a)(7) and in accordance with the procedures set forth in 18 U.S.C. § 985. Pursuant to the terms of the attached Stipulation and Settlement Agreement (the “Settlement Agreement”) the Court orders the Real Properties forfeited to the United States and judgment entered for the United States.

I. **PROCEDURAL BACKGROUND**

On April 10, 2015, the Notice of the Verified Complaint of Forfeiture was recorded in the City of Rutland Land Records in Book 643, pages 186-187 for 114 Park Avenue, pages 188-189 for 116 Park Avenue, and pages 190-191 for 117 Park Avenue.

On April 20, 2015, the Government advertised the Notice of Forfeiture on the official

government Internet site www.forfeiture.gov for 30 consecutive days. The publication notice advised all third parties of their right to petition the court within sixty (60) days from the first day of publication of the Notice for a hearing to adjudicate the validity of their alleged interest in the forfeited Real Properties. The posting end date was May 19, 2015.

On April 16, 2015, TD Bank (the “Bank”) received by certified mail the Verified Complaint of Forfeiture and Notice of Judicial Forfeiture Proceedings.

On April 16, 2015, the City of Rutland (the “City”) received by certified mail the Verified Complaint of Forfeiture and Notice of Judicial Forfeiture Proceedings.

On April 20, 2015, Ericob Vermont Realty Corp. (“Ericob”) received by certified mail the Verified Complaint of Forfeiture and Notice of Judicial Forfeiture Proceedings.

On April 24, 2015, the Bank, by its attorney Elizabeth A. Glynn, Esq., filed a Verified Claim to the Real Properties. On May 5, 2015, the Bank filed an answer to the Verified Complaint.

On May 1, 2015, Claimant the City, by and through its Treasurer and Tax Collector Wendy L. Wilton, filed a Verified Claim to the Real Properties. The City’s Verified Claim relates to unpaid property taxes, water fees, and sewer fees, plus interest and penalties.

On May 8, 2015 the U.S. Marshals Service (“USMS”) served tenant and property manager Brenda Fish of Apartment 1 at 114 Park Avenue with the Writ of Entry.

On May 8, 2015 the USMS served tenant Tiffany Felix of Apartment Two at 114 Park Avenue with the Writ of Entry.

On May 8, 2015 the USMS served tenant Dana Smalley of Apartment Three at 114 Park Avenue with the Writ of Entry.

On May 8, 2015 the USMS served tenants Dana Thomas, Jason Bruno, and Cody VanGuider of Apartment One at 116 Park Avenue with the Writ of Entry.

On May 8, 2015 the USMS served tenant Gary Post of Apartment Two at 116 Park Avenue with the Writ of Entry.

On May 8, 2015 the USMS served tenants Robert Hall, Brian Hathaway, Ruth Hall, and Brian Hathaway Jr. of Apartment Three at 116 Park Avenue with the Writ of Entry.

On May 8, 2015 the USMS served tenants Bob Godette and Denise Thompson of Apartment Four at 116 Park Avenue with the Writ of Entry.

On May 8, 2015 the USMS served tenants Irene E. Hough and Brian DiPietro of Apartment One at 117 Park Avenue with the Writ of Entry.

On May 8, 2015 the USMS served tenants Eric Reid and Rebecca Peters of Apartment Three at 117 Park Avenue with the Writ of Entry.

On May 8, 2015 the USMS served tenant Brittney Erickson of Apartment Four at 117 Park Avenue with the Writ of Entry.

On May 8, 2015 the USMS executed and posted next to the front door on each of the Real Properties, 114, 116, and 117 Park Avenue, copies of the Writ of Entry.

On May 18, 2015, Claimant ERICOB Vermont Realty Corp. (“ERICOB”), by its attorney, Matthew M. Shagam, Esq., filed a Verified Claim to the Real Properties. On July 22, 2015, ERICOB filed an answer to the Verified Complaint.

On July 15, 2015 the USMS served tenants Kara Bennett and Vernon Bowie of Apartment Two at 117 Park Avenue with the Writ of Entry.

On July 15, 2015 the USMS served tenant Tiffany Wood of Apartment Four at 117 Park Avenue with the Writ of Entry.

On November 10, 2015 the USMS served tenants Tanya White and Erin Goodrich of Apartment One at 114 Park Avenue with the Writ of Entry.

II. SETTLEMENT AGREEMENT

On August 29, 2016 the Government and claimants ERICOB, the Bank, and the City, entered into a Settlement Agreement at resolved their claims to the Real Properties. This Court approves the Settlement Agreement between the Government and claimants ERICOB, the Bank, and the City and such Settlement Agreement is entered as an Order of the Court.

III. FINDINGS AND ORDER

The Court finds that notice of this *in rem* action has been properly given, no other persons are known to have an interest in the Real Property, and no other claims or answers have been filed and the time for filing such a claim has expired pursuant to Rule G(5)(a)(ii) and (b) of the Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions in the Federal Rules of Civil Procedure.

It appearing that process was fully issued in this action and returned according to law, on the unopposed motion of the United States for issuance of an Order of Forfeiture and Judgment, it is hereby ORDERED, ADJUDGED AND DECREED:

1. That the Real Properties are forfeited to the United States of America and that all claims and interests are forever closed and barred.
2. The USMS shall dispose of the Real Properties in accordance with the Settlement Agreement and as required by law.
3. The Settlement Agreement is approved and entered as an order of the Court.

4. This Court shall retain jurisdiction over this action to enforce this Settlement Agreement and take such other action as may be necessary.

Dated at Burlington, in the District of Vermont, this 30th day of August, 2016.

/s/ William K. Sessions III
WILLIAM K. SESSIONS III
United States District Court Judge

JUDGMENT ENTERED ON DOCKET
DATE: August 31, 2016